

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

K.O., et al.

Civil No. 21-CV-1837 (PJS/ECW)

Plaintiffs,

v.

**ORDER GRANTING  
CLASS CERTIFICATION**

Heather Mueller,

Defendant.

The above-captioned matter is before the Court on the motion of Plaintiffs for Class Certification and the parties' Stipulation to Amend the Class Definition and Certify the Class. Plaintiffs are represented by their attorneys Jason H. Kim of Schneider Wallace Cottrell Konecky and Sonja Peterson of the Minnesota Disability Law Center. Defendant is represented by Assistant Attorneys General Martha J. Casserly and Alec Sloan of the Minnesota Attorney General's Office.

Based upon all the files and proceedings herein, the Court makes the following:

**ORDER**

1. Pursuant to Federal Rule of Civil Procedure 23(b)(2), the above matter is certified as a class action, with the class defined as:

All children (a) who are receiving or received special instruction and services pursuant to the Individuals with Disabilities Education Act and Minnesota Special Instruction laws from a local educational agency in Minnesota, (b) who became 21 years old after July 1, 2019, or will become 21 during the pendency of this action, (c) whose special instruction and services ended, or will end, on July 1 after their 21st birthday pursuant to Minn. Stat. § 125A.03(b), (d) whose special instruction and services ended, or will end, before they complete the graduation requirements to receive a regular high school diploma as defined in 34 C.F.R. 300.102(a)(3)(iv).

2. Plaintiffs K.O. (suing through his parent J.O.) and A.C. (suing through her parents D.C. and J.C.) are appointed as class representatives; and

3. Jason H. Kim of Schneider Wallace Cottrell Konecky and Sonja Peterson of the Minnesota Disability Law Center are appointed as class counsel pursuant to Federal Rule of Civil Procedure 23(g).

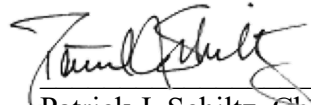
4. The Court finds that the requirements of Federal Rule of Civil Procedure 23(a) have been satisfied because: (1) the class, which consists of 259 known members and unknown number of future members, is so numerous that joinder of all members is impracticable; (2) there are questions of law and fact common to the class, among others whether Minn. Stat. § 125A.03(b) is consistent with 20 U.S.C. § 1412(a); (3) the claims of the named Plaintiffs are typical of the class as they arise from the same Minnesota law and the same Minnesota practice providing special instruction until July 1 after a student's 21st birthday and the named Plaintiffs and class share the same interest in obtaining relief; and (4) the named Plaintiffs and their counsel are adequate class representatives as the named plaintiffs have no interest antagonistic to the class and their counsel are highly experienced in this type of litigation and have demonstrated the ability thus far to provide effective representation of the class.

5. The Court finds that the requirements of Federal Rule of Civil Procedure 23(b)(2) have been satisfied because Defendant has “acted or refused to act on grounds generally applicable to the class” such that “final injunctive or corresponding declaratory relief with respect to the class as a whole” would be appropriate if Plaintiffs prevail. To the extent the class seeks compensatory education, such relief is within the ambit of Rule 23(b)(2) as the equivalent of prospective injunctive relief.

6. Finally, the Court finds pursuant to Federal Rule of Civil Procedure 23(g) that Jason H. Kim of Schneider Wallace Cottrell Konecky and Sonja Peterson of the Minnesota Disability Law Center are qualified to be class counsel considering the factors set forth in that rule: counsels’

work in identifying the claims in this action, counsels' experience with this type of claim, counsels' knowledge of the applicable law, and counsels' ability to devote the resources to bring this claim to a successful conclusion, as set forth in the Declarations of Jason H. Kim and Sonja Peterson.

Dated: September 29, 2022



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Patrick J. Schiltz, Chief Judge  
United States District Court